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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,816	04/18/2000	Raul Bruzzone	PHF 99,598	2671

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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BRIARCLIFF MANOR, NY 10510

EXAMINER

FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 02/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/551,816

Applicant(s)

BRUZZONE, RAUL

Examiner

Derrick W. Ferris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1.5.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. Examiner has included IDS forms filed with the application and as paper number 5 since it may be been unclear whether these forms were sent back to the applicant by the previous examiner. Therefore, attached please find the IDS forms initialized by the examiner.

### *Response to Amendment*

2. **Claims 7-18** as amended are still in consideration for this application. Applicant has canceled claims 1-6. Applicant has added claims 7-18.

3. Examiner **withdraws** the objection to the Abstract for Office action filed 09/11/03. Examiner thanks applicant for making the necessary correction.

4. Examiner does **not withdraw** the obviousness rejection to *Proctor* in view of *Choate* for Office action filed 09/11/03. In addressing applicant's arguments in the response filed 12/11/03, at issue is the following underlined limitation (or equivalent):

*“selection means for, based on the acquired data, conditionally selecting at least an active secondary station and at least an alternative secondary station suitable for becoming active”*

Examiner notes that the *Choate* reference implicitly or inherently teaches the further underlined step of selecting at least an alternative secondary station suitable for becoming active. In particular, *Choate* discloses selecting the most optimal/best station, e.g., see column 24, line 56 – column 25, line 6. Applicant further provides evidence from *Choate* at column 4, lines 41-49 and column 15, lines 23-51 in reference to applicant's remarks filed 12/11/03 at page 8, top paragraph. The *Choate* reference implicitly or inherently teaches selecting an alternative

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secondary station based on the ranking of the stations, e.g., see table II at column 15, lines 25-35.

In particular, one skilled in the art would recognize that if a first choice cannot be met (i.e., that station with the highest ranking of e.g., 1) then the second choice should be selected (i.e., the station with the next lower ranking of e.g., 2). One is motivated in the selection of a lower base station by ranking the stations as taught by *Choate*. Below please a final rejection for the claims as necessitated by amendment.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 7-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,100,843 A to *Proctor, Jr. et al.* ("*Proctor*") in view of U.S. Patent No. 5,123,112 A to *Choate*.

As to **claims 7-18**, *Proctor* discloses an antenna apparatus used in mobile communications that consists of multiple antenna elements (items 100 and 101-105) (see Figure 2 and col. 6, lines 1-14). Figure 2 also shows transceiver (130) and control processor (140) that are used in the acquisition of data sent between units. Figure 3 discloses the steps taken by control processor (140) and memory storage therein to measure the signal strength of each phase setting (items 302-305) (col. 8, lines 14-60), the result of which is used to calculate the direction of the base station (col. 9, lines 4760; and col. 10, lines 55-61). Phase Shifters (111-115), in Figure 2, are used in conjunction with control processor (140) to orient the antenna elements

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based on the direction found (col. 8, lines 44-54). Figure 3 additionally discloses step 306, which determines the best setting/direction to be used and then controls the antennas accordingly (step 307).

*Proctor* makes reference to scanning potential sources, but does not specifically state that the invention stores a list of alternate base stations that can become active if the need arises. To make up for the above-cited deficiency, figure 4 in *Choate* discloses an airline communication system that consists of multiple transceivers (121, 121', 121"), as well as processor (138) and memory (143) that are used to control communications between the aircraft and base stations (col. 9, lines 61-68; col. 10, lines 1-21). Figure 18 in *Choate* discloses the manner in which the invention scans and stores a list of all active base stations in the area of the mobile device (steps 154-172). Figure 19 (steps 195-201) shows the decisional selection process used in choosing the base station and an example of the ranking system and data table can be found in col. 15, lines 8-61.

By combining this rating/storage of all base stations disclosed by *Choate* with the antenna apparatus mentioned in *Proctor*, the resulting mobile device would be able to track all the base stations in its vicinity and store information about these base stations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include such a monitoring/storage system in order to facilitate hand-off between cellular base stations. By including such a system, a mobile device would be able to change the direction of its antenna quickly and thus maintain a high signal strength at all times.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (703) 305-4225. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
DWF

Derrick W. Ferris  
Examiner  
Art Unit 2663

  
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